

**REMARKS/ARGUMENTS**

Claims 1-26 remain in the application.

**A. Rejections under 35 U.S.C. 102.**

Claims 1-10, 12-13, 15, and 20-26 were rejected under 35 U.S.C. 102 based upon Nelson. This rejection is respectfully traversed.

Independent claim 1 calls for, among other things, a controller linked to first and the second data buffers for selectively retrieving the data packets of the first and second media streams to form a first and a second time-adjusted stream, wherein the controller determines a variable transmission delay for the first and the second media streams and performs the selective retrieving based on the determined variable transmission delays. Further, claim 1 calls for the controller to combine the first and second time-adjusted streams into a composite media stream. These elements of claim 1 are not shown or suggested by Nelson.

In this case, claim 1 calls for a system in which first and second media time adjust media streams formed. Nelson shows a TDMA variant in which, at best, individual data packets may be delayed so that the packet synchronizes with a time slot. Whether the data packets make up part of a voice channel, or data channel, or a media stream is not relevant. What is relevant, however, is that Nelson does not suggest time adjusting an entire media stream, only individual packets within a media stream.

A typical goal of a telephony system like Nelson's is to transmit information without time adjustment. Time adjustment can be noticed by listeners, and can disrupt data transmission. The uses for the present invention are quite tolerant of, and benefit from the time adjustment created by claim 1 in that it allows a media stream from one source (e.g., a breaking news update from a remote location) to be combined with a media stream from another source (e.g., a newsroom

anchorperson). These applications enabled by claim 1 benefit from forming a time-adjusted media stream, not simply delay packets within a media stream.

Applicants' maintain that Nelson does not appear to discuss transmission delays nor the determination of a transmission delay. Nelson describes buffering to compensate for transmission rate variation, but does not appear to face a problem of variable transmission delay addressed by the invention of claim 1. Hence, Nelson does not show or suggest a controller that determines a variable transmission delay for the first and the second media streams and then combines the first and second time-adjusted streams into a composite media stream.

Claims 2-10 and 12-14 depend from claim 1 and are believed to be allowable for at least the same reasons as claim 1 as well as the distinguishing limitations appearing in those claims.

Independent claim 15 calls for, amongst other things, a decoder for decoding the first and the second media streams into a first and a second intermediate media stream, respectively, wherein the first and second intermediate streams are compatibly formatted. Claim 15 also calls for a streaming media processor for combining the first and the second intermediate-format media streams into a composite media stream. These features of claim 15 are not shown or fairly suggested in the Nelson reference.

The cited portion of Nelson discusses a controller that interfaces with a number of CODECs, but does not show or suggest that these CODECs use multiple different standards. There is no discussion of an intermediate media stream, nor combination of two intermediate media streams in to a composite media stream. As noted above, Nelson does not show or suggest a composite media stream in any form. For at least these reasons claim 15 is allowable over Nelson.

Claims 20-26 are believed to be allowable for at least the same reasons as claims 1, and the claims that depend from claim 1, that are set out above.

**B. Rejections under 35 U.S.C. 103.**

Claim 11 was rejected under 35 U.S.C. 103 based upon Nelson in view of allegedly admitted prior art. This rejection is respectfully traversed. Applicant's maintain that this rejection is based on hindsight reconstruction of the invention based on the problem described by applicant and using applicant's own discussion as the motivation to reject the invention. The rejection stated against claim 11 is not a proper rejection under 35 U.S.C. 103 and it is respectfully requested that the rejection be withdrawn.

Claim 14 was rejected under 35 U.S.C. 103 based upon Nelson in view of "Official Notice. This rejection is respectfully traversed. Applicant is unaware of any "notorious" knowledge of an end-user synchronizer. Specifically, claim 14 calls for a synchronizer for determining a variable transmission delay between the controller and the end-user node and for performing time-based correction of the composite media stream to adjust for the variable transmission delay. The office action does not even allege that this type or functionality in a synchronizer is well-known. Accordingly, the use of Official Notice in this instance is challenged and it is respectfully requested that some reference be supplied to support this feature or that the rejection of claim 14 be withdrawn.

It is also noted that the final Office action does not respond to applicants arguments with respect to claims 11 and 14 in any way, and merely maintains the rejection based on official notice without supplying the reference as required by the MPEP. Accordingly, this office action should not be made final as applicants still have not had a fair opportunity to analyze and present arguments in response to a reference which still is not in their possession. IT IS RESPECTFULLY REQUESTED THAT FINALITY OF THE OFFICE ACTION BE WITHDRAWN.

Claims 16-19 were rejected under 35 U.S.C. 103 based upon Nelson in view of Anderson. This rejection is respectfully traversed. Claims 16-19 are distinct from Nelson for at least the same reasons as claim 15 from which they depend and for at least the same reasons as set out above in regard to claim 1.

**C. Conclusion.**

The references that were cited but not relied upon are no more pertinent than those references that were relied upon. In view of all of the above, the claims are now believed to be allowable and the case in condition for allowance which action is respectfully requested. Should the Examiner be of the opinion that a telephone conference would expedite the prosecution of this case, the Examiner is requested to contact Applicants' attorney at the telephone number listed below.

This response is filed together with a request for a three month extension of time and the required fee. Any fee deficiency associated with this submittal may be charged to Deposit Account No. 50-1123.

Respectfully submitted,



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